



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/682,108	10/09/2003	Darold Dean Tippey	17,738	8216

23556 7590 03/02/2006

KIMBERLY-CLARK WORLDWIDE, INC.
401 NORTH LAKE STREET
NEENAH, WI 54956

EXAMINER

BUI, LUAN KIM

ART UNIT	PAPER NUMBER
----------	--------------

3728

DATE MAILED: 03/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

6

Office Action Summary

Application No.

10/682,108

Applicant(s)

TIPPEY, DAROLD DEAN

Examiner

Luan K. Bui

Art Unit

3728

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-26, 28, 30 and 31 is/are rejected.
- 7) ☒ Claim(s) 27 and 29 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 2/13, 12/13/04, 1/11/05, 2/3/05, 6/24/05
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 16-25, 30 and 31 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 16, the phrase "said other walls" lacks proper antecedent basis.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 5, 6 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Roussel (5,377,837) in view of The Great Britain Patent Application No. 2 310 652 to Bennet (hereinafter Bennet). Roussel discloses a package (1, 2) in the embodiment of Figures 8-10 comprising an enclosed compartment (2) having a pair of oppositely aligned walls (4, 5) and a perimeter, an array of compressible articles (31) retained in the enclosed compartment and the articles having at least one planar surface aligned substantially parallel to at least one of the pair of oppositely aligned walls and being held in compression in a direction that is substantially perpendicular to the planar surface, expansion means (6) including a pliable member (8) for

allowing the enclosed compartment to be enlarged and a release strip (18) bridging the expansion means and capable of being at least partially removed to allow the enclosed compartment to be enlarged by the pliable member. Roussel also discloses the other limitations of the claims except for the pliable member being positioned about at least a portion of the perimeter in lieu of at least one of the pair of oppositely aligned walls.

Bennet shows a package (10) comprising an enclosed compartment having a pair of oppositely walls (14, 24) and a perimeter and expansion means (27) positioned about at least a portion of the perimeter (Figures 1-2). It would have been obvious to one having ordinary skill in the art in view of Bennet to modify the package of Roussel so the pliable member of the expansion means is positioned about at least a portion of the perimeter to facilitate expanding. As to claims 5 and 6, Roussel discloses the package and the expansion means formed from the same material/integral (Figure 8). As to claim 9, Figure 1 of Roussel shows the expansion means allows the volume of the enclosed compartment to be enlarged by at least about 5%.

5. Claims 2-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 1 above, and further in view of Helfer-Grand (6,427,839). Roussel further fails to show the pliable member being an elastic material. Helfer-Grand teaches a package having expansion means (131) formed from elastic material (Figure 2 and column 7, lines 47-51). It would have been obvious to one having ordinary skill in the art in view of Helfer-Grand to modify the expansion means of Roussel as modified so the pliable member comprises an elastic material/stretchable/separate to allow the package for better expansion and contraction.

Art Unit: 3728

6. Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 1 above, and further in view of Wright (3,145,840). Roussel further fails to show at least one of the pair of oppositely aligned walls being a semi-rigid material and the material being formed from cardboard. Wright suggests a container (9) having at least a pair of oppositely aligned walls and the walls formed from cardboards (column 2, lines 1-4). It would have been obvious to one having ordinary skill in the art in view of Wright to modify the walls of Roussel as modified so at least one of the pair of oppositely aligned walls formed from cardboard/semi-rigid for better protecting the articles disposed within the package.

7. Claims 10-15, 16-19 and 21-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 3 above, and further in view of Bauer et al. (5,934,470; hereinafter Bauer'470). Roussel further fails to show opening means being formed in at least one of the walls in lieu of an opening means (27, 29) of Roussel disposed in a portion of the perimeter (Figure 10). Bauer'470 show a package (10) having opening means (17) formed in at least one of oppositely aligned walls (14). It would have been obvious to one having ordinary skill in the art in view of Bauer'470 to modify the package of Roussel as modified so the opening means disposed in at least one of the walls to facilitate removing the articles from the package and since it has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japikse*, 86 USPQ 70.

As to claims 13 and 14, Roussel discloses the expansion means allows the volume of the closed compartment to be enlarged from between about 10% to about 50% (Figure 1).

Art Unit: 3728

As to claim 15, it appears the release strip (18) comprises a width of less than about 30 mm (Figure 8).

As to claim 16, Roussel discloses the expansion means includes the pliable member/pleat formed by folding (14, Figure 9).

8. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 16 above, and further in view of Miller (6,698,928). Roussel further fails to show the release strip comprises a terminal end and a pull tab secured to the terminal end. Miller shows a package (100) comprising a pull-tab (104, 109) attached to an end of a release strip (Figure 6). It would have been obvious to one having ordinary skill in the art in view of Miller to modify the release strip of Roussel so the release strip comprises a pull-tab attached to an end of the release strip to facilitate opening the package.

9. Claims 26, 28 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claims 1, 10 and 16 above, and further in view of Stagra y et al. (2002/0112982; hereinafter Stagra y'982). Roussel further fails to show the package includes instructions for informing a consumer on how to dispense the compressible articles from the package. Stagra y'982 teaches a package (100) for holding articles having instructions on the package for opening the package and for using the articles. It would have been obvious to one having ordinary skill in the art in view of Stagra y'982 to modify the package of Roussel as modified so the package includes instructions for informing a consumer on how to dispense the compressible articles from the package to provide more convenience for the user.

Art Unit: 3728

Allowable Subject Matter

10. Claims 27 and 29 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

11. Claim 31 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

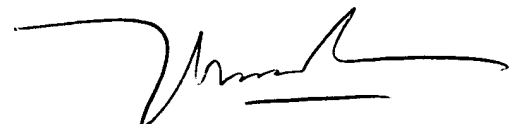
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Luan K. Bui whose telephone number is 571-272-4552. The examiner can normally be reached on 8:30-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on 571-272-4562. **The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300 for Formal papers and After Final communications.**

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

lkb
February 24, 2006



Luan K. Bui
Primary Examiner
Art Unit 3728